

The Environmental Cooperation Pilot Program: 2002 Progress Report

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TABLE OF CONTENTS

- I. Executive Summary
- II. Five New Agreements Signed in 2002
- III. Cooperative Agreement Advisory Group
- IV. USEPA Collaboration
- V. Program Challenges
- VI. Conclusions



I. Executive Summary

The Environmental Cooperation Pilot Program (the "Program") is a landmark Wisconsin initiative that has gained national recognition as a model in testing innovative approaches to environmental performance. These new approaches seek to significantly enhance a company's environmental performance while at the same time reducing administrative costs, providing regulatory flexibility, and increasing communication with key stakeholders. This cooperative strategy acts as a catalyst for more sustained and effective investment in environmental performance.

A brief survey of the Program's five years of operation shows that a number of key policy benchmarks have been met. In 1997, the Environmental Cooperation Pilot Program law (s. 299.80 Wis. State Statutes) was passed allowing the Wisconsin Department of Natural Resources (Department) to pursue up to ten Cooperative Agreements with individual facilities. In March of 1999 the Department became the first agency of its kind in the country to enter into a formal Memorandum of Agreement with the US Environmental Protection Agency regarding the pursuit of innovative environmental regulatory initiatives.

As of October 1, 2002, the Program has negotiated seven signed Agreements:

- 1) We Energies' Pleasant Prairie Power Plant, signed February 5, 2001;
- 2) Cook Composites and Polymers of Saukville, signed October 1, 2001;
- 3) Northern Engraving Corporation of Sparta and Holmen, signed June 10, 2002;
- 4) Packaging Corporation of America of Tomahawk, signed September 10, 2002;

- 5) Madison Gas & Electric Company of Madison, signed September 26, 2002;
- 6) We Energies (formerly Wisconsin Electric Power Company) of Milwaukee, signed September 30, 2002; and,
- 7) 3M Menomonie of Menomonie, signed October 1, 2002.

Now in its fifth year of existence, the Program is yielding measurable and sustainable environmental performance. Program accomplishments include:

- 1) Improved stakeholder involvement that goes beyond regulatory processes at all Program facilities.
- 2) Increased focus on product design and materials substitution as a means of achieving pollution prevention.
- 3) Recovery of coal ash (equivalent to three train units) from landfills for use as a fuel.
- 4) Expedited permitting to allow testing of innovative pollution control technologies for mercury.
- 5) Reduction of wastewater administrative submittal by approximately 230 pages at one facility.
- 6) Closure of a hazardous waste incinerator.
- 7) Reduced DNR staff administrative and enforcement costs.
- 8) Waste solvents recovered for re-use.
- 9) Reduction in the volume of hazardous waste generated by the facility.
- 10) Recovery of energy from biomass fuels.
- 11) Reductions in emissions and discharges as a result of environmental management system development.
- 12) Improved environmental performance reporting to the Department and the public.
- 13) Increased trust and active collaboration between participating facilities, the Department and stakeholders, and
- 14) A demonstration model for future potential environmental program improvements in Wisconsin and nationally.

As specified in the statutes, the enrollment phase of the Program was completed on October 1, 2002. The Bureau of Cooperative Environmental Assistance is now charged with managing the program in conjunction with the seven participating facilities and the public. The goal is to achieve continual improvement in environmental performance based on the commitments made in the Agreements, identify new opportunities that arise while Agreements are in place, and enhance communication and stakeholder involvement.

Program Challenges:

The primary challenge to the Program has not changed over the past year. Finding the legal foundation and legal protections for granting the flexibilities sought by companies while continuing to work within a traditionally prescriptive regulatory system has been problematic. Through this Program we are seeking to foster more adaptive mechanisms within government regulatory frameworks, and within business culture. The rigidity of the traditional regulatory system, especially as embodied in the federal body of law and guidance, has meant at times, less environmental performance rather than more.

Green Tier Legislation:

Over the course of the last year, Green Tier provisions were incorporated into Assembly Bill 479. Initial results from the Program were presented as testimony before both sides of the Legislature. The legislation passed in the Assembly 97-2 and there was not sufficient time to consider the legislation in the Senate. The provisions were also included in the Assembly version of the Biennial Budget Repair Bill but were not included in the final Conference Committee version of the bill. Introduction is expected at the start of the next legislative session.

Based on the results of the Program, work is underway to explore the demand side of Green Tier legislation. Work has been completed to identify companies that have environmental management systems, the basic building block for Green Tier. Documentation will be drawn from the pilot sites to identify the kinds of flexibility and performance that can be achieved through the program, models that can be used for citizen participation and coalitions that can be formed to more effectively manage transaction costs.

Wisconsin is also working to build an "incubator" that will allow for the focused development of the Green Tier concepts in a way that engages some of the pilot sites and all of the lessons learned from the pilot program. The Department has set specific objectives as a part of the strategic implementation plan to assure that both the pilot sites are supported and the lessons learned are captured in an organized and credible way.

II. Five New Agreements Signed in 2002

The Program tested several approaches to streamlining the negotiation process. That effort combined with timely attention by USEPA made it possible to sign five more Agreements in 2002. They are already starting to produce superior environmental performance. While each of these Agreements is unique, they all share at least three main achievements. First, each facility has committed to develop an environmental management system and each had already shown improvement in environmental management even before its environmental management system was fully implemented. Second, each Agreement has already produced performance beyond the minimum environmental regulatory requirements and demonstrated progress towards superior results. Third, all participants have provided valuable information about public involvement programs. The five Agreements signed this year are summarized below:

Northern Engraving Corporation (NEC):

NEC became the third Wisconsin company to sign a Cooperative Agreement with the Department. The voluntary, five-year Agreement covers NEC's Holmen and Sparta facilities with options to include other NEC facilities in the future. NEC manufactures nameplates and other industrial decoratives.

NEC has agreed to cap emissions of volatile organic compounds and hazardous air pollutants at levels lower than regulations allow. NEC also has agreed to implement a comprehensive Environmental Management System (EMS) in which environmental improvement and protection are incorporated into the operations and procedures of the facilities covered by the Agreement.

The Sparta facility was one of the first twelve organizations in Wisconsin to have an EMS registered under the international standard for environmental systems ISO 14001 (ISO 14001 is an international standard recognized by major trading nations and the World Trade Organization).

The Agreement also introduces flexibility into NEC's air pollution control permits, recognizes NEC's past environmental protection accomplishments and sets a goal to reduce excessive administrative workloads and reporting for both the state and the company.

Since executing the Agreement, NEC has requested the addition of two more of their Wisconsin facilities to the program. Work is underway to amend the Agreement, complete the necessary work on the air permits and provide the public notice as established in the Cooperative Agreement law.

Packaging Corporation of America (PCA):

PCA, headquartered in Lake Forest, Ill., makes corrugated medium used in packaging. The Tomahawk facility, with 450 employees, is Lincoln County's largest manufacturing employer.

Under the Agreement, PCA will implement two environmental control projects. One project is designed to maximize the control of methanol, a hazardous air pollutant, while the other will allow increased use of biomass fuel in power generation.

For one part of its Agreement, PCA worked with the University of Wisconsin-Madison and the National Council for Air and Stream Improvement in verifying the performance of a PCA-designed environmental

system that dramatically reduces atmospheric releases of methanol produced in the wood pulping process. Since the innovative process went online in May 2001, methanol collection and treatment has improved more than 500 percent.

Under the second part of the Agreement, PCA intends to increase the use of bark and sawdust as fuel in one of its power boilers, thus reducing coal consumption. Other terms of the Agreement include commitments by PCA to develop an environmental management system. PCA also will evaluate treatment methods designed to minimize phosphorus discharges to the Wisconsin River.

In addition, by means of an interested persons group, PCA will work to increase employee and community understanding of the facility's environmental objectives and performance.

Madison Gas and Electric Company (MGE):

MGE provides energy to 125,000 customers in Wisconsin. The Agreement applies to the company's Blount Generating Station in downtown Madison, which produces electricity daily throughout the year and supplies about 10 to 15 percent of the electricity MGE's customers use.

The Agreement specifies 15 distinct actions MGE will take to achieve a higher level of environmental performance. These actions include increased use of alternative fuels that burn cleaner than coal -- including solid waste materials that would otherwise be landfilled -- as well as continuation of a study to improve the efficiency of one of MGE's two largest boilers. The Agreement also ensures that MGE will continue working to improve its environmental management system to make it more consistent with ISO 14001, the international standard for environmental management.

Under this Agreement, MGE will work with the Department on a stormwater pollution prevention project, increase its mercury recycling, increase the use of alternative fuels in its boilers and fleet and pursue a host of other environmental improvement actions that go well beyond what current regulations require.

Also under the Agreement, MGE will still be held to existing emission limits and pollution control requirements and will be required to verify that they meet these standards. However, the Agreement allows the company more flexibility by reducing certain administrative requirements for monitoring and reporting while still ensuring ample regulatory oversight. These alternative procedures will save MGE and the Department both time and money while continuing to protect the environment.

We Energies:

In this Agreement, We Energies will invest \$400 to \$600 million in environmental improvements at its power plants and cut emissions of mercury by 50 percent, sulfur dioxide by 45 to 50 percent and nitrogen oxide by 60 to 65 percent over the next decade.

With this Agreement, We Energies becomes the first company in Wisconsin to voluntarily commit to an enforceable, multi-pollutant air quality strategy that goes beyond current regulatory requirements. The commitments within this Agreement serve as a model for other utilities nationwide in addressing the environmental aspects associated with the use of fossil fuels. The Agreement also offers a significant new tool to improve air quality in southeastern Wisconsin through voluntary emission reductions.

We Energies owns and operates five coal burning and three natural gas-burning power plants in Wisconsin covered by the Agreement. We Energies was also the first to sign an Agreement with the Department in February 2001 covering the Pleasant Prairie Power Plant in Kenosha County.

The Agreement does not grant We Energies any variances to existing environmental standards, emissions limits or pollution control requirements. The Agreement does, however, provide more flexibility to the company by reducing certain administrative requirements for permitting, monitoring and reporting. As a result, these alternative processes will save both the Department and We Energies time and money while enhancing environmental quality.

Another feature of the Agreement is that We Energies will expand its efforts to involve the public by including stakeholders in twice-yearly reviews of the company's environmental management systems and progress reports. Additionally, We Energies will provide more public access to information about We Energies than has previously been available through tours, meetings, presentations and publication of information on the Internet.

3M Company - Menomonie (3M):

This Agreement sets demanding environmental management goals for 3M's Menomonie plant while allowing it flexibility and creativity in deciding how to meet those goals. Some of 3M's goals under the Agreement are to reduce hazardous waste levels and to cut VOC (volatile organic compound), solid waste and chemical waste output per pound of "good output" (usable product) by 25 percent compared to the year 2000. The plant will also double the number of projects in its Pollution Prevention Pays program compared to the past five years.

The 3M Company produces and supplies consumer and industrial products worldwide. 3M's Menomonie plant employs about 430 people and occupies a 540-acre site, a good portion of which is leased for agricultural use.

The plant houses nine major operations that manufacture products ranging from reflective sheeting for traffic signs to high-temperature insulating fibers to electromagnetic detection strips used in library books. The plant also hosts a research and development project for new fuel cell technology.

Under the Agreement, 3M Menomonie will still be held to existing emission limits and pollution control requirements and will be required to verify that they meet these standards. However, the Agreement allows the company more flexibility by reducing administrative requirements for monitoring and reporting while still ensuring ample regulatory oversight. These alternative procedures will save 3M and the Department both time and money while continuing to protect the environment.

3M Menomonie has also created an interested persons group made up of local citizens and university and county representatives who provided valuable advice as the Department and 3M negotiated the Agreement, and who will continue to have input into 3M's environmental management.

III. Cooperative Agreement Advisory Group

The Cooperative Agreement Advisory Group did not meet during the past year, however members of the group still provided advice and comment on Program issues. This was a decision to focus resources on the completion of the Agreements. Faced with a staffing-cut in the Cooperative Environmental Assistance Bureau, resources were dedicated to the Agreements. The decision helped to ensure that outreach was done and negotiations were completed prior to the statutory end of the enrollment period on October 1, 2002.

IV. USEPA Collaboration

The USEPA worked diligently to address the Agreements that were executed at the end of the year. USEPA provided letters of support for all five of the Agreements that were executed.

Prior to this, USEPA worked with PCA on bench scale and full-scale implementation tests for alternative treatment methodologies identified under PCA's Agreement. Results were reviewed and findings made that

approved the alternative treatment at PCA. A site specific rule for PCA enabling them to operate this system is also being developed by USEPA. Preparation of federal register notices for the SIP amendments needed for WEPCO - Pleasant Prairie project and Northern Engraving Corporation were also prepared, and work is continuing on preparation of the federal register notices for the SIP amendments for Madison Gas and Electric, additional facilities for Northern Engraving Corporation, and possibly WEPCO system-wide.

USEPA questioned the immunity provisions contained in the Wisconsin Law towards the end of the enrollment period. Wisconsin and USEPA agreed to continue the dialogue in early 2003 in order to develop alternatives that could be used in the future. Both Wisconsin and USEPA realize that the current MOA language needs to be revised, and this will be discussed in 2003.

Wisconsin continues to work with USEPA on national initiatives to enable innovation, flexibility and superior environmental performance. This work will be done in conjunction with the Multi State Working Group (MSWG) and the Environmental Council of the States (ECOS). The National Innovation Strategy, USEPA Performance Track Program and Executive Order 13148 on Environmental Management Systems form the basis for this dialogue as efforts increase to align state and federal programs. Wisconsin has supported and worked to lay the groundwork for three national forums on management systems and innovation that should take place over the course of 2003 and early 2004. The goal is to focus the debate on the use of performance based programs, identify the means to provide a legal "safe haven" for this work and provide the skills needed to effectively and efficiently deliver superior environmental performance.

V. Program Challenges

The Program is now in the transition phase from enrollment to implementation. The focus of the implementation phase will be on the elements of the Agreements capable of defining and delivering continual improvement. Over the course of the next year efforts will be focused on:

1. The vitality and efficacy of the environmental management systems implemented at the pilot facilities,
2. Design, implementation and evaluation of the reporting systems used in the Agreements,
3. Assuring that the Agreements are dynamic and that systems can be adapted to environmental, economic and social change,
4. Capturing and applying the lessons learned to guide the consideration and development of the proposed Green Tier program,
5. Aligning state and federal programs to accomplish maximum environmental benefit, and
6. Using the working relationships (business, government and community) enabled by these Agreements to introduce mutual-gain decision making and entrepreneurial networks into the management of environmental performance.

The elements listed below were included in the report last year. The elements bear repeating since they continue to be part of the ongoing discussions for performance based programs. Several of these barriers were overcome in order to reach individual Agreements but there is still a need to consider how these issues would be addressed long term.

Department structural impediments to Program effectiveness include:

- 1) A dedicated multi-disciplinary Department team is not always available to address the regulatory flexibility needs of each participating facility,
- 2) Department regulatory staffs are not always available as needed to consult on implementation elements of the Agreement in addition to regulatory support,
- 3) Response time from Department staff regarding Agreement issues continues to lag behind the needs

of the facilities,

- 4) Reaching Department and USEPA consensus on particular requested flexibilities including "air bubble" permits continues to be a challenge, and
- 5) Consensus on establishing and recognizing a baseline for the past environmental accomplishments of participants has been difficult to achieve.

Challenges faced by participating facilities include:

- 1) Establishment of an interested persons group prior to actual negotiations,
- 2) The need to go public on initial negotiations,
- 3) Potential ambivalence by community stakeholders when environmental performance is perceived as being strong.
- 4) Overcoming resource issues during initial Agreement implementation during challenging business, market and economic conditions.
- 5) Limited resources available to the company for the establishment of an interested persons group,
- 6) Small business recruitment incentives are inadequate,
- 7) Participating facilities increased exposure leads to fear of additional surveillance/attention by federal government, inspectors, etc.,
- 8) Interested persons group presents challenges to the facility in the form of vulnerability to public scrutiny, and
- 9) There is a lack of guaranteed outcome for the facilities.

VI. Conclusions

The legislature authorized the Department to execute up to 10 Cooperative Agreements. The Department has executed seven Cooperative Agreements. Early results show that the approach is capable of delivering environmental results beyond the results that would have been accomplished without the Program. Annual reports are being provided and baseline information is being developed. As a result of the Agreement with We Energies last year, Wisconsin will have the first instance of the Global Reporting Initiative applied at the facility level. We Energies also presented initial data on the energy recovery from its landfills as part of invited testimony to the Legislature. Other facilities are well underway towards developing reporting and performance information. Despite significant administrative overhead in the research and development phase of the Program, Agreements are starting to yield proportional environmental and business value. Agreements like Madison Gas and Electric have come about through informed and collaborative decision making with citizens and community groups. This work continues to drive the exploration of models that encourage "mutual gain" decision-making. The lessons from Cooperative Agreements have already resulted in spin-off projects that will build upon the results that have been achieved through this part of the process.

The fact that these Agreements were written against the backdrop of rigid command-and-control systems where flexibility is not consistently considered speaks volumes for the Program. This climate made the development of the Agreements difficult. Despite that difficulty six companies, through seven Agreements, have begun managing environmental performance through a new working relationship with the state and their respective communities. These are intended to be long term relationships, accomplishing improved performance above the compliance bar over time. This is different from the more traditional approach that establishes performance at a point in time. From this aspect, the Program has been successful in moving all of the participants into a new approach to identifying and managing opportunities for environmental improvement. As implementation proceeds, the Program will consider those elements that yield continual environmental performance and will share them with the state and national debate on performance based systems.

Participating Companies and Contacts

Participating Company	Company Contact	DNR Contact
3M Company – Menomonie (Menomonie, WI) Agreement 10/1/02	Wendy Reno, 3M wendy.reno@mmm.com (651) 778-7674	Mark Harings, DNR Mark.Harings@dnr.state.wi.us (715) 831-3263
Cook Composites And Polymers (chemical manufacturer in Saukville, WI) Agreement 10/1/01	Mike Gromacki, CCP Gromacki@ccponline.com (816) 391-6011	Lynn Persson, DNR Lynn.Persson@dnr.state.wi.us (608) 267-3763
Madison Gas And Electric (electric and natural gas utility in Madison, WI) Agreement 9/26/02	Mike Ricciardi, MGE Mricciardi@mge.com (608) 252-5627	John Shenot, DNR John.Shenot@dnr.state.wi.us (608) 267-0802
Northern Engraving Corporation (surface coater in Sparta and Holmen, WI) Agreement 6/10/02	Randy Nedrelo, NEC rnedrelo@nasllc.com (608) 269-6911	Mark Harings, DNR Mark.Harings@dnr.state.wi.us (715) 831-3263
Packaging Corporation of America (paper mill in Tomahawk, WI) Agreement 9/10/02	John Piotrowski, PCA Jpiotrowski@packagingcorp.com (715) 453-2131, ext. 349	Laurel Sukup, DNR Laurel.Sukup@dnr.state.wi.us (715) 365-8936
We Energies/ Pleasant Prairie Power Plant (electric utility, Pleasant Prairie, WI) Agreement 2/5/01	Brian Borofka, We Energies Brian.Borofka@wepco.com (414) 221-4872	John Shenot, DNR John.Shenot@dnr.state.wi.us (608) 267-0802
We Energies – system wide (electric utility) Agreement 9/30/02	Kris McKinney, We Energies kris.mckinney@wepco.com (414) 221-2157	John Shenot, DNR John.Shenot@dnr.state.wi.us (608) 267-0802